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ENFORCEMENT OF CHILD LABOR LAWS

BY HOMER FOLKS,

Secretary, State Charities Aid Association, New York.

I am not at all sure that a comparison of the numbers present at this meeting and at that held at 12 o'clock might not reflect somewhat the degree of interest in the subject of enforcing child labor legislation, as compared with the interest in securing its passage. The subject of enforcement of child labor legislation is one in which those of us engaged in promoting such legislation feel, or certainly ought to feel, a very great degree of responsibility. Having secured our laws, registering at least some degree of progress over earlier statutes, we do, as a matter of fact, find ourselves not by any means at the end of our child labor campaign, but only in the position of having captured the outer breastworks, so to speak, of the enemy's camp, and being then confronted with the main position, which remains to be secured. There is not, as a rule, quite as much of the spectacular effect, nor quite as much of the martial spirit, in securing the enforcement of child labor legislation; the batteries are more effectively masked; and it is very much more difficult, oft-times, to know against what we are contending and wherein the strength of the position lies, than it was when we were fighting out in the open before the legislative committees on the question of what laws shall go upon the statute books.

The question of law enforcement might be approached from two points of view, and does, in fact, involve two different sorts of considerations—one, a highly technical set of considerations as to the actual provisions of laws looking toward their enforcement, and intended to facilitate their enforcement, the machinery of inspection departments, and of court procedure; as to these I have no technical or special knowledge.

A second set of considerations is more general in character and might be approached with the question as to how laws in general are enforced and what considerations, what factors and what influences, as a rule, secure such degree of enforcement of other statutes as is actually secured. Looking at it in that most general

aspect, for a moment, I think it must be evident that the most powerful factor in securing the enforcement of any law—the factor that does, in fact, secure such enforcement as is secured in the main—is that intangible something, the force of public opinion. Most laws are to a very large extent executed by the force of that very sentiment which secures their enactment. Most of us obey the laws, most laws, in so far as we do obey them, not from fear of the jail or the court or the fine, or of any other penalty, but out of regard for the good opinion of our fellows, a majority of whom have registered, through their representatives, a consensus of opinion that a certain act, or a certain class of acts, are contrary to the general well-being and contrary to good public policy. Breaking laws is, as a rule, unpopular. It exposes a man to attack. His motives, as a rule, are questioned, and he is made to feel uncomfortable in other relations of life. That, in the long run and in the main, in my judgment, will be the factor ultimately securing the largest degree of compliance with child labor laws, as with other laws; and I speak of it to suggest that, perhaps, as a national child labor committee, and as state and local child labor committees, we might address ourselves somewhat directly to the task of making the violation of child labor laws more unpopular, and more generally recognized as being unpatriotic and bad citizenship—the kind of thing that a man who hopes to stand well in the community should not be found doing. In the creation of atmosphere and attitude toward the law, not only at the time it is enacted, but subsequently, we shall do more to strengthen the hands of our public departments charged with its enforcement than in any other way.

Then, secondly, I would also raise the question as to whether we might not address ourselves somewhat directly to the fact that in practically every case there is a parent concerned in the violation of the child labor law, and that the parent, if properly informed as to the nature of the offense, and definitely, in language intelligible to him, of which he grasps the full significance, that it is an offense against the law—whether we shall not in that way, also, secure a much larger degree of compliance with the law than, perhaps, we have heretofore secured.

But, still in the background there must always be the shadow of the actual penalty, and the machinery for discovering and bringing to task those who do not respond to those more general appeals

directed to good citizenship and to public esteem, and to the regard of their fellow-citizens in church and in society. Now, along the lines of that work, the question is at once raised as to the machinery of factory inspection and the processes for the actual enforcement of the law. I will only speak of two or three aspects of the matter as to which we, as child labor committees, perhaps can contribute, and probably must contribute, as a rule, very considerably to secure good results.

The first of these is in securing the appropriation with which to obtain an adequate inspection department. As a hardened legislative agent of many years' experience in addressing the Legislature at Albany, the one thing that stands out in my experience and observation as most depressing is the frequency with which the Legislature deems it safe to yield to public sentiment to the extent of placing a law upon the statute books, while at the same time denying the request for the machinery with which the law might be enforced; and deeming it safe so to do, feeling reasonably confident that those who were interested in getting the law will not be awake to the fact as to whether it is enforced or not, and will not fully realize what is meant by the failure to grant the appropriation for its enforcement.

So strongly have I felt about this that it has seemed to me that perhaps it is the most serious evil of our state and local governments. It adds to the fact of leaving the situation unimproved, the hypocrisy and hollowness of placing upon the statute books a law which the State, that is, the people who enacted the law, did not intend to have enforced. It is a standing reproach, it seems to me, of a most serious sort. The task of securing the appropriation for employing a labor commissioner and factory inspectors is certainly, as a rule, not less difficult than the task of securing the passage of the original legislation.

Then the question of securing the appointment of men to that department who will be appointed to these offices with the expectation that they will enforce the law, and will be impartial and effective, is the next step, and perhaps, in very many instances, at least, is fully as difficult as either of the other two. You must have observed, not only in connection with child labor legislation, but in connection with so many other forms of social regulation, the fact that the last card of the party who is to be regulated

is to name the publicly appointed regulator, and to name a man or men who are not to be relied upon to perform that regulation for which the law was passed and for which they are appointed. That stage of our progress is one at which we cannot afford for one instant to relax our attention to what is going on in legislative chambers and executive offices.

As to the assistants and subordinates, and deputies in the state departments, may I contribute one bit of recent experience from the State of New York, still speaking in general terms, regarding our state administration? At times in the past we have been, as it were, compelled to choose between two things—between those appointed in the exempt class, without competitive examinations, who would be politicians; and others, appointed from a competitive examination list, who would not be fitted for the particular work in hand. How often have we hesitated between what seemed those two, and only those two, alternatives. We have discovered in the course of the past year or two, in our state service, a method of making competitive examinations actually tests of the qualifications of the persons who are examined to perform the duties for which the examination is held. That has been accomplished largely by two steps. First, by the action of the State Civil Service Commission in calling to its aid in the conduct of examinations persons who are themselves experts in the lines of work of those departments; in some instances men having some connection with the departments, but, as a rule, persons not in the same service, but fully informed as to that branch of the state service. Secondly, by having the examination in part an oral examination, intended not only to test the knowledge of the applicant, but to give full weight to his personal qualities, his personality, his experience, his attitude. There are limits beyond which the oral examination and the experts' assistance should not be carried, but they have contributed, I should say, more than any other one thing in the last two or three years in New York to reconciling those who have been working for efficient and specialized administration, and those who have been working for the extension of the competitive examination principle.

Beyond that phase of the subject we come to the question of court proceedings. Conferring with those engaged in the enforcement of laws, most of us have, I think, a rather uniform experience

of finding that the opinion is quite general that the particular law in question does not receive effective, intelligent, unbiased consideration at the hands of the lower courts. I speak not of Boston, or New England, because I know not the facts, but in regard to New York I am quite sure that I have stated the fact correctly. I also find that those who approach the question of the lower courts from any other point of view, such, for instance, as that of securing adequate support from negligent husbands, or any other one of half a dozen things which bring us before the courts, for social purposes, are apt to feel that their particular lines of effort receive very scanty, ineffective and fruitless handling in the courts; so that I am inclined to believe that the last part of our problem is part of a larger problem of reorganizing, perhaps of reconstituting, most of the lower courts that deal with these social questions. I venture the suggestion that we shall find our best line of progress in the specializing of the work of those courts; that just as we have secured a juvenile court for the trial of cases of children only, and are securing domestic-relations courts, to study and deal only with questions of domestic relations, and as we have now in New York a night court, which is practically a court for dealing with a single subject, so, perhaps, we must go still further in order to secure from the judges of those courts special treatment of the subjects from their social aspects, consistently with their legal aspects.

I would like to raise for consideration the question as to whether, generally speaking, the violation of child labor laws ought to be tried in the juvenile court, for there are evidently diverse tendencies in that regard, the major tendency at the moment, perhaps, being that offenses against children, as well as charges of offenses by children, should be tried in the juvenile court.